

# **METROPOLITAN AREA PLANNING COMMISSION**

## **MINUTES**

**November 1, 2007**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 1, 2007, at 1:30 P.M., in the Planning Department Conference Room, City Hall – 10<sup>th</sup> Floor, 455 N. Main St., Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; Don Anderson, Vice-Chair; Elizabeth Bishop; David Dennis; Darrell Downing; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Debra Miller Stevens and G. Nelson Van Fleet. Michael Gisick and Don Sherman were not present. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; and Maryann Crockett, Recording Secretary.

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1. Approval of the October 18, 2007 MAPC minutes.

**CHAIRMAN MITCHELL** announced that two administrative corrections were made to the minutes as follows: the date in paragraph #1 (should read October 18, 2007) and the duplication of part of the staff report on item #3, ZON2007-46.

**BISHOP** commented that case #ZON2007-46 was deferred for two weeks, and asked why it was not on today's agenda.

**GOLTRY** explained that during review it was noted that an updated ownership list was needed, which would necessitate that the case be re-advertised.

**MOTION:** To approve the October 18, 2007 minutes, as corrected, subject to staff recommendation.

**MCKAY** moved, **DENNIS** seconded the motion, and it carried (10-0).

**ANDERSON** and **DOWNING** abstained.

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❖ **Items # 2-1 and 2-4 may be taken in one motion unless there are questions or comments.**

2. Consideration of Subdivision Committee recommendations from the meeting of October 25, 2007.

- 2-1. **SUB 2007-93: One-Step Final Plat -- SUNFLOWER BROADCASTING, INC., ADDITION,** located on the south side of 37<sup>th</sup> Street North and west of Hillside.

NOTE: This is an unplatted site located within the City.

### **STAFF COMMENTS:**

A. City water and sanitary sewer services are available to serve the site.

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be

submitted to the Planning Department for recording.

- C. City Engineering has approved the applicant's drainage plan. A minimum pad needs to be shown on the final plat tracing.
- D. Traffic Engineering has requested access controls denoted on the final plat tracing. Access controls need to be defined in accordance with the preliminary plat, which denotes one opening along 37<sup>th</sup> St. North. Access controls need to be referenced in the plat's text.
- E. The reference in the plat's text to Rock Road and a contingent street dedication needs to be deleted.
- F. Traffic Engineering has requested a dedication of 10-feet of additional street right-of-way along 37<sup>th</sup> St. North.
- G. County Surveying advises that a benchmark datum is needed.
- H. County Surveying advises that a base flood elevation (BFE) is needed.
- I. County Surveying advises that a floodway reserve or drainage easement is needed to cover the floodway.
- J. County Surveying advises that the lowest floor elevation needs to be designated.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- L. A bold line shall denote the north property line of the plat. The bold lines denoted within the 37<sup>th</sup> St. right-of-way shall be deleted.
- M. This plat is located within the City Limits of Wichita and will be heard by City Council. Therefore, the County certification needs to be deleted.
- N. The signature line for the Deputy within the Register of Deeds certificate needs to be revised to reference "Tonya Buckingham".
- O. In the title block "City of Wichita" needs to be added.
- P. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items subject to staff recommendation.

**DOWNING** moved, **HENTZEN** seconded the motion, and it carried (12-0).

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**2-2. SUB 2007-94: One-Step Final Plat -- CEDAR VIEW VILLAGE ADDITION,** located east of Greenwich Road and south of Kellogg.

NOTE: This is a replat of portions of the Woodland Lakes Community Church Addition and the Cedarview Addition.

**STAFF COMMENTS:**

- A. Water Utilities Department has required the applicant to relocate both existing public water and existing public sewer lines to new easements and right-of-ways as well as extend public water and public sewer to serve all lots. A temporary easement is needed to cover the lines until relocation has occurred. Relocation of private sewer line is needed in Reserve B. Dedication of a private easement is needed if any portion of the private sewer lateral remains in Reserve B.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be

submitted to the Planning Department for recording.

- C. City Engineering has approved the applicant's drainage plan. A drainage guarantee is needed.
- D. Traffic Engineering has approved the access controls. The plat proposes complete access control along the Lincoln street frontage except for one street opening. The final plat shall reference the dedication of access controls in the plat's text.
- E. Traffic Engineering has approved the right-of-way along Lincoln.
- F. The Applicant shall guarantee the paving of the proposed streets. The Subdivision Committee has approved the existing pavement width if the core thickness meets City standards. *The applicant will provide a restrictive covenant prohibiting on-street parking on either side of Bristol Circle.*
- G. The right-of-way radius for the eyebrow and turnaround needs to be increased to 37 feet.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. On the final plat tracing, the MAPC signature block needs to reference "M.S. Mitchell, Chair"
- M. The Subdivision Committee has approved a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-5, Block 1, and for Lots 12-17, Block 2. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- N. Lot dimensions are missing on Lot 13, Block 2.
- O. GIS has approved the plat's street names and advises that one existing street address needs to be revised.
- P. City Fire Department has approved the street length of Bristol Circle. (1,150 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. Although not denoted on the face of the plat, the plat's text states that an emergency access easement is platted along the west end of Bristol Circle. A gate and sign will be required.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- R. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Westar Energy requests additional easements.
- Z. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**NEIL STRAHL**, Planning staff presented the staff report.

Commented that an issue that came up at the Subdivision Committee was the paving requirement on the new cul-de-sac. He referred MAPC members to item F of the staff report, and commented that a portion of the cul-de-sac has already been built, and it was determined by City Engineering that it is substandard. He said current regulations regarding pavement width indicate that the cul-de-sac is three feet narrower than is required. He said the Subdivision Committee approved a waiver of those requirements as long as the thickness meets City standards. He said a core was taken on the portion of the road, and it does meet standards, which will trigger the waiver. City Engineering has concern regarding the passage of vehicles, particularly emergency vehicles, and was going to appeal; however, prior to this MAPC meeting the applicant agreed to submit a restrictive covenant that prohibits parking on either side of the cul-de-sac. That would alleviate Engineering's concern.

**MOTION:** To approve, subject to staff recommendations and Subdivision Committee approval.

**MARNELL** moved, **MCKAY** seconded the motion, and it carried (12-0).

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- 2-3. SUB 2007-91: One-Step Final Plat -- ALLEN WILLIAMS ADDITION,** located south of Harry and on the east side Hoover Road.

NOTE: This is a replat of a portion of the Utility Contractor's 4<sup>th</sup> Addition along with the adjoining unplatted land to the south. A zone change (ZON 2007-51) has been requested from SF-5, Single-Family Residential to LI, Limited Industrial for the south portion of the site.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. City water services are available. Water Utilities Department has required a petition to extend public sewer to serve the lot. The main benefit fees shall be included in that petition.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the applicant's drainage plan. A minimum pad may be needed. The building elevation shall be two feet above the Corps of Engineer ponding elevation, which is 1295.1.
- E. County Surveying advises that the 15' drainage dedication should be dedicated by separate instrument or included in the boundary of plat.
- F. County Surveying advises that a benchmark datum is needed.
- G. The applicant proposes two access openings along Hoover. Traffic Engineering has approved two openings as denoted on the site plan, which need to be defined. The existing opening on the property to the north shall be closed.
- H. The south opening shall permit cross-lot access for the benefit of the abutting property to the south, if and when said lot is developed for non-residential use. A restrictive covenant shall be provided addressing this condition.
- I. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- J. The Subdivision Committee has required a contingent 5-foot minimum sidewalk easement.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed

information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- L. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- M. The Applicant is advised that if platted, the building setback may be reduced to 20 feet.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platator's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items subject to staff recommendation.

**DOWNING** moved, **HENTZEN** seconded the motion, and it carried (12-0).

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**2-4. SUB 2007-92: One-Step Final Plat -- MAIZE SCHOOL SOUTH CAMPUS ADDITION,**  
located on the south side of 37<sup>th</sup> Street North, between Maize Road and Tyler Road.

NOTE: This is a replat of the Central Maize Schools Addition in addition to unplatted land to the west.

STAFF COMMENTS:

- A. City water and sanitary sewer services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The plat proposes three openings along Tyler, three openings along Maize, and six openings along 37<sup>th</sup> St. North. Traffic Engineering requests that the face of the plat specifies that all access points shall be placed in accordance with Access Management Standards. Access controls need to be denoted at the corner of 37<sup>th</sup> St. North and Tyler. The site plan denotes an additional opening along Tyler, which needs to be included on the final plat tracing.
- E. The plat's text shall note the dedication of the streets to and for the use of the public.
- F. The two lots shall be included within one block.
- G. The standard language regarding vacation statutes need to be referenced.
- H. Reserve A needs to address utilities.
- I. County Surveying advises that a benchmark datum is needed.
- J. The plat's text shall include reference to "lots and a block" in the owner's certificate.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. In accordance with the plat's text, Fox Ridge Development Company is responsible for ownership and maintenance of Reserve A. The restrictive covenant associated with Reserve A will need to be signed by Fox Ridge Development Company.
- M. Reserve B needs to be expanded to the east in accordance with the drainage plan.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant



stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- O. On the final plat tracing, the MAPC signature block needs to reference "M.S. Mitchell, Chair"
- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve items subject to staff recommendation.

**DOWNING** moved, **HENTZEN** seconded the motion, and it carried (12-0).

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❖ **PUBLIC HEARINGS**

3. **Case No.: ZON2007-33** – Homer Morgan {applicant}; David Udden {agent} Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Lots 14 and 15, East Kellogg Acres Addition, Sedgwick County, Kansas. Generally located Midway between Kellogg Avenue and I-35, on the west side of Greenwich Road.

**BACKGROUND:** The applicant is requesting a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial, on Lots 14 & 15, East Kellogg Addition. Each of the lots is approximately 0.68-acres in size, each has 101.5-feet of frontage along Greenwich Road and all are 291-feet deep. The lots were developed with single-family residences (built 1961 & 1973), which have been removed. The applicant proposes unspecified commercial uses. The agent for this case had previously rezoned the north, abutting three lots, Lots 16, 17 & 18, East Kellogg Acres Addition, ZON2005-53, from "SF-5" and "GC" to "LC" with Protective Overlay #166. All but one of the single-family residences on those three lots has been removed.

The area's nonresidential-zoned properties (nonresidential zoning is the overwhelming majority of zoning on properties in the area) are experiencing recent (from 2000 to present) commercial development, including a Lowe's, Wal-Mart, strip retails and a Green Lantern car wash. Development east of the site and immediately across Greenwich Road, includes two retail strips (built 2002 & 2004), zoned "GC" and "LC," a car sales business (built 1990) zoned "LI" Limited Industrial and "GC" General Commercial. East of these businesses is the Wal-Mart (built 2002), the Lowe's (built 2001), some free standing fast food restaurants and platted undeveloped commercial lots. Zoning on these properties is either "LI," "GC" or "LC". All of the properties east of the site, across Greenwich Road, are part of CUP DP-196, with the exception of the car sales properties. Abutting and adjacent to the south and west sides of the site are single-family residences and a vacant lot; all of them zoned "SF-5." Properties abutting and adjacent to the site's north side are single-family residences, zoned "LC" and "GC." All of the mentioned abutting and adjacent northern, western and southern properties are in the same subdivision, the East Kellogg Acres Addition (recorded December 23, 1953) as the site.

The site's East Kellogg Acres Addition was platted and mostly developed while it was located in the County and before the current commercial development in the area began. The area was annexed into the City sometime between 1961 & 1970. Long time homeowners in the addition now find themselves isolated and surrounded with regional types of commercial development. There are ten "SF-5" zoned single-family residences (built in the early and mid 1950s, the early and mid 1960s and the early 1970s) remaining from the original single-family residential development of the subdivision. An "SF-5" zoned 10.5-acre undeveloped tract is located approximately 300-feet west, across Trig Street, of the site.

The site and the East Kellogg Acres Addition, which the site is a part of, are in the "Spring Branch Master Drainage Plan". Almost all of the East Kellogg Acres Addition is identified on the Plan's Master Map as being in the 100-year flood boundary. The plan states "That there is an abrupt rise in the flood profile upstream of I-35 (KTA) and west of Greenwich Road," which is the location of the East Kellogg Acres Addition. It further states that "Floodwaters upstream of I-35 (KTA) reach nearly 10-foot in depth, and Greenwich Road is overtopped. In addition, Trig Avenue (a dirt residential street) becomes impassable during major storm events." These are the two roads that define the East Kellogg Acres Addition's east and west boundaries. A 40-foot easement runs north to south through and between all of the residential lots in the East Kellogg Acres Addition to I-35 (KTA). The easement contains a sewer line and an open drainage ditch, with well-defined grass banks and bordering trees. In the past, when the drainage ditch has been filled to overflowing with water the sewer line has backed up into the single-family residences that abut it.

Properties in the East Kellogg Acres Addition are identified in the plan as having potential flood risk. At the May 27, 2004 "Spring Branch Drainage Study" public meeting six of the residence (40%) in the East

Kellogg Acres Addition provided written comments expressing their experiences, concerns and experiences with the current drainage on their properties.

Any development on the site will be required to provide a drainage plan to the Public Works Storm Water Engineer for review and approval, meet the access management regulations, compatibility setback standards, landscaping and any other applicable codes and development standards.

**CASE HISTORY:** The site is platted as Lots 14 and 15, the East Kellogg Acres Addition, which was recorded with the Register of Deeds December 23, 1953. The East Kellogg Acres Addition is included in the “Spring Branch Master Drainage Plan” final report.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“LC,” “GC”	vacant lots, a house, car wash, manufactured home sales lot
SOUTH:	“SF-5”	single-family residences
WEST:	“SF-5”	single-family residences, undeveloped land
EAST:	“GC” “LC” “LP”	car sales, big box retail, fast food, and strip retail

**PUBLIC SERVICES:** The site has access to Greenwich Road. Greenwich Road is a four-lane arterial, with a center turn lane along the site. There is a stoplight at the intersection of Greenwich and the drive into the commercial development located east of the site. The 2030 Transportation Plan shows no change to Greenwich Roads status. Greenwich Road has 50-feet of half street right-of-way at this location. Current traffic volumes, along Greenwich between Kellogg Street and I-35 are approximately 7,272 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes will increase to approximately 25,000 vehicles per day. Water, sewer and all other utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide of the Comprehensive Plan classified the site as “Regional Commercial.” This classification encompasses major destination areas containing concentrations of commercial, office, and personal service uses that have a predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships, and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. The requested “LC” zoning matches the anticipated development of the area as shown on the Guide and current development trends in the area.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request, with the implementation of an approved drainage plan, the access management regulations (including cross lot access), the compatibility setback standards, landscaping, screening, and the other provisions of a proposed protective overlay and any other applicable codes and development standards conforms to the Land Use Guide and the Commercial Locational Guidelines of the Comprehensive Plan.

**RECOMMENDATION:** When ZON2005-33 was written it was noted that its requested “LC “ zoning was a possible preview of how the rest of the East Kellogg Acres Addition’s “SF-5” lots would eventually be rezoned: a few lots at a time. The current request for the rezoning of two residential lots confirms that anticipated trend. The East Kellogg Acres Addition was platted and mostly developed while it was located in the County and before the current commercial development in the area began. Long time homeowners in the addition now find themselves isolated and surrounded with regional types of commercial development. Drainage, as noted in the “Spring Branch Master Drainage Plan,” is a key issue that needs to be addressed with this zoning request and any future rezoning applications in the addition. Retention and storage of drainage on the site and any subsequent rezoned sites presents a challenge for the developer to in regards to how much of each site can be built on after a drainage plan

has been approved by the Public Works Storm Water Engineer. Access control and cross lot access will need to be addressed in way that anticipates future rezoning and a 2030 projected increase in traffic on Greenwich that is three times higher than today. A Protective Overlay with the proposed provisions would limit the negative impact of commercial development on the remaining single-family residences in the East Kellogg Acres Addition and anticipate possible future rezoning in the area.

Based upon information available prior to the public hearings, Staff recommends APPROVAL of the “LC” zoning with a Protective Overlay. The provisions of Protective Overlay #195:

1. On site pole lights shall be no higher than 14-foot, if within a 100-feet of property with residential zoning. They shall be hooded and directed onto the site and away from the residential developments and zoning west, north and south of the site. No pole lights shall be located within the required compatibility setbacks along the west and south sides of the property.
2. No signs shall be permitted along the face of any building or along any street frontage that faces any property that is in a residential zoning district.
3. A drainage plan including retention and compensatory storage must be provided to the Public Work’s Storm Water Engineer for review and approval, prior to any building permits being issued.
4. Dedicate by separate instrument 10-foot of right-of-way along the site’s Greenwich frontage. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published
5. A restrictive covenant providing cross lot access between the site’s lots and ensuring that conformance to the current access management standards can be applied to the entire site and not on it’s current configuration of two individual lots platted in the East Kellogg Acres Addition. Complete access control will be approved at the time that access from the site (not per individual lot) onto Greenwich is approved by the Traffic Engineer and implemented when commercial use replaces the current single-family uses. The current driveways for each lot’s current single-family use/residences will remain in effect until such time that commercial use replaces the single-family residences. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published.
6. In anticipation of future commercial development in the area the approved drainage plan and the restrictive covenant will tie into abutting and adjacent northern lots covered by PO #166.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The neighborhood located along this portion of the Greenwich Road – Kellogg Street – I-35 (KTA) area has recently began developing with big box retailers Wal-Mart and Lowe’s anchoring other commercial development in the area, including medium size strip retail, large regional car sales lots and fast food restaurants. It is reasonable to anticipate that the undeveloped platted lots in the immediate area with commercial zoning will be developed. Zoning for these commercial developments and undeveloped lots are most commonly “GC” with some “LI” and “LC” zoning. It is not uncommon to have Community Unit Plan Overlays on these commercial or industrial zoned lots. The East Kellogg Acres Addition contains the last “SF-5” zoned single-family residences in the area and it is disappearing with the past approval of ZON2005-33 and the possible approval of today’s request.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “SF-5” Single-family Residential and was developed with two single-family residences,

which have been removed. Recent regional commercial development in the area has made the site and the addition it is located in isolated and less desirable as a single-family residential development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Commercial development on the site will increase runoff in the area and potentially increase the likelihood of flooding the abutting single-family residences and water flowing over both Greenwich Road and Trig Street. Implementation of an approved drainage plan is critical for the site and its neighbors; both now and in the future if and when the other "SF-5" zoned lots apply for commercial zoning. Conformance to the current access management standards and cross lot access is critical to ensure safe access to and from the site from Greenwich Road. The implementation of the provisions of the Protective Overlay and the standards of the Unified Zoning Code over the whole site would limit the adverse impact on the abutting adjacent residential developments.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Regional Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. With the provisions of the proposed Protective Overlay, the site is largely in conformance to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Drainage in the area will be critically altered by any future commercial development, which has will increase runoff. A residential area that is located within the 100-year flood boundary will be put at risk for future flooding, if the drainage is not addressed as approved by the Public Work's Storm Water Engineer. The increase in runoff caused by future commercial development in the area/site will also have the potential to increase the frequency of water flowing over Greenwich Road and Trig Street. Ensuring that the conformance to the current access management standards and cross lot access is also critical in regulating the points of access onto Greenwich Road for public safety.

No one requested this case to be heard.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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4. **Case No.: ZON2007-48** – First Pentecostal Church Inc., c/o Rev. Marrell Cornwell, Baughman Co., c/o Russ Ewy Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The North half of the East 10 acres of the North 20 acres of the West half of the Northwest Quarter of Section 15, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record. Generally located on the south side of MacArthur Road and east of Hydraulic Avenue.

**BACKGROUND:** The applicant is requesting "LC" Limited Commercial zoning for the 4.7-acre unplatted "SF-5" Single-family Residential zoned site. The site is partially developed with a single-family residence located on its west portion. The site is located approximately 660-feet east of the Hydraulic Avenue – MacArthur Road intersection, with frontage/access onto MacArhtur. The requested "LC" zoning would allow the applicant to market the site for commercial development.

The site abuts the east side of a 0.89-acre “SF-5” zoned KG&E electric substation, which is located between the subject site and the applicant’s partially developed First Pentecostal Church site: Pentecostal 2<sup>nd</sup> Add, 12-1-1982 and the Ed Dwire Add, 3-20-1978. The applicant’s church site is zoned largely “LC” Limited Commercial (1958), with a smaller, undeveloped, “B” Multi-family Residential zoned portion. The site also abuts the north side of a 13-acre unplatted, undeveloped “SF-5” zoned property. This 13-acre “SF-5” zoned property is also owned by the applicant and has frontage/access onto MacArthur. The 13-acre site is being considered for “GO” zoning on today’s agenda: ZON2007-49. If the applicant’s requested zoning changes, ZON2007-48 & -49 are approved, the KG&E “SF-5” zoned substation site will be the last of the developable “SF-5” zoned property on the west side of Hydraulic, for approximately ¼-mile south of MacArthur. The developed “SF-5” properties in this area are located largely on the west side of Hydraulic. The area’s configuration is defined by I-35, I-135, 47<sup>th</sup> Street South and the Arkansas River.

There are “MH” Manufactured Housing zoned manufactured home complexes abutting the east side of the site (Z2753 {1986} and Z3209 {1996}). Properties north of the site, across MacArthur, are zoned “MH,” “GC” and “LI” and are developed as a manufactured housing complex, an indoor roller skating rink and Wichita’s last drive-in theater, the twin screen Starlite. The “GC” and “LI” zoned drive in theater is the largest portion of CUP DP-47, which was approved in 1972. DP-47 has four parcels; the largest parcel (A) allows only the drive-in theater. The three smaller parcels allow restaurants, service stations and retail, Parcel B, while Parcels C & D allow indoor – outdoor sale and services as allowed in “GC” zoning. The owner of the drive in theater has expressed concerns about the impact of additional lighting and noise in the area, as allowed by today’s zoning cases.

**CASE HISTORY:** The site’s area was annexed into the City sometime between 1961 – 1970.

**ADJACENT ZONING AND LAND USE:**

NORTH: “GC,” “LI,” “MH”	indoor roller skating rink, twin screen drive-in theater, manufactured housing complex
SOUTH: “SF-5,” “MH”	undeveloped, manufactured housing complex
EAST: “MH”	manufactured housing complexes
WEST: “SF-5,” “LC”	electric substation, church, auto repair, convenience store

**PUBLIC SERVICES:** The site has access to MacArthur Road, a four-lane arterial, with 40-foot of half-street right-of-way. Average daily trips (ADT) along this section of MacArthur are approximately 12,000 ADT. The 2030 Transportation Plan projects traffic along this section of Hydraulic to increase to approximately 14,000 ADT. Municipal sewer and water services and all other utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential.” The “urban residential” category includes all densities of residential development found within the urban municipality. The requested “LC” zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The site’s proposed “LC” zoning is closer in its order of position in the list of zoning districts to the existing, abutting “MH” and adjacent “MH,” “GC” and “LI” zoning than its current “SF-5” zoning, which is isolated from the adjacent (west of Hydraulic) “SF-5” zoned single-family residential subdivisions.

**RECOMMENDATION:** The proposed “LC” is more appropriate for the site than the site’s current, isolated “SF-5” zoning. A protective overlay would help mitigate potential negative impact on the adjacent church, the adjacent and abutting “MH” zoned manufactured home complexes’ residences, as

well as the drive-in theater. Staff recommends APPROVAL of the proposed "LC" zoning, subject to platting in a year and the following provisions of PO #196:

1. Prohibited uses on the site include limited and general correctional placement residences, private and public recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, asphalt or concrete plant, limited and general, recreational vehicle campground, tavern and drinking establishment, and pawn shop.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, as well as away from the drive in theater site. No pole lights shall be located within the required setbacks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning in the area ranges from "SF-5," "TF-3," "B" and "MH" to "LC," "GC" and "LI." Uses include manufactured home complexes, single-family residences, churches, auto repair, convenience store, an electric substation, small retail, a skating rink and the last drive-in theater in Wichita. There is also undeveloped land in the area, zoned "SF-5" and "B," and most of it is owned by the applicant/church.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" and abuts a "SF-5" zoned electrical substation (west side), undeveloped "SF-5" zoned property (south side, owned by the applicant) and (east side) a "MH" zoned manufacturing housing complex. The "GC" and "LI" zoned drive in theater and roller skate rink, as well as a "MH" manufactured home complex are located north of the site, across MacArthur. Existing zoning and development in the area has made the subject site less attractive for single-family residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Denial of the request would not impose any negative affect on nearby properties. However, approval of the requested "LC" zoning with the proposed provisions of the PO would allow the property owner to develop the site with uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship imposed on the applicant is primarily economic. Approval of the requested "LC" zoning with the proposed provisions of the PO would allow the property owner to market the site for uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "urban residential." The requested "LC" zoning and the uses permitted in it would be classified as "local commercial" by the Guide. The site's location along MacArthur is appropriate for "local commercial" and the "LC" uses as permitted in the proposed PO are more compatible to existing uses and zoning than the site's current "SF-5" zoning.
6. Impact of the proposed development on community facilities: Traffic would increase with any development of the site, although the uses as permitted in the proposed PO, would generate traffic mostly during the working hours, with the possible exception of uses that would involve medical services and warehouse, self service storage, in that case evening and night traffic is a possibility. There is a seasonal increase of night traffic in the area generated by the remaining twin screen

drive-in theater in Wichita. Platting will address access onto MacArthur (and the additional ROW needed) as well any drainage issues created by development of the site.

**BILL LONGNECKER**, Planning staff presented the staff report.

**MOTION:** To take items #4 (ZON2007-48) and #5 (ZON2007-49) as one item, since it was from the same applicant.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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- 5.     Case No.: ZON2007-49** – First Pentecostal Church Inc., c/o Rev. Marrell Cornwell (applicant); Baughman Company c/o Russ Ewy (agent) Request City zone change from "SF-5" Single-family Residential to "GO" General Office on property described as;

The South half of the East 10 acres of the North 20 acres of the West half of the Northwest Quarter of Section 15, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, TOGETHER with the South 348 feet of the North 1007.4 feet of the West 1042.5 feet of the West half of said Northwest Quarter. Subject to road rights-of-way of record. Generally located on the south side of MacArthur Road and east of Hydraulic Avenue.

**BACKGROUND:** The applicant is requesting "GO" General Office zoning for the 13-acre unplatted, undeveloped "SF-5" Single-family Residential zoned site. The site is located approximately 635-feet south of the Hydraulic Avenue – MacArthur Road intersection, with frontage/access onto Hydraulic. The requested "GO" zoning would allow the applicant possible development of the site for office, day care centers, assisted living, senior housing, and additional church parking

The site abuts the south and east sides of the platted (Pentecostal 2<sup>nd</sup> Add, 12-1-1982 and the Ed Dwire Add, 3-20-1978), partially developed First Pentecostal Church site, which is zoned largely zoned "LC" Limited Commercial (1958 County zoning), with a smaller, undeveloped, "B" Multi-family Residential zoned portion. The site also abuts the south side of unplatted "SF-5" zoned property owned by the applicant, which is partially developed with a single-family residence, with the rest being vacant. This "SF-5" zoned 4.7-acre church owned property has frontage/access onto MacArthur and is being considered for "LC" zoning on today's agenda: ZON2007-48. A "SF-5" zoned KG&E electric substation is located between the church site and its 4.7-acres of "SF-5" property. The substation abuts the northwest corner of the subject site. If the applicant's requested zoning changes, ZON2007-48 & -49, are approved the KG&E "SF-5" zoned substation site (less than an acre) will be the last "SF-5" zoned property on the west side of Hydraulic, for approximately ¼-mile south of MacArthur.

There are "MH" Manufactured Housing zoned manufactured home complexes (three of the area's ten) abutting the south and east sides of the site: Z2897 (1988), Z2753 (1986) and Z3209 (1996). Properties west of the site, across Hydraulic, are zoned "SF-5" (platted in the early 1950s) and developed as single-family residences. The developed "SF-5" properties in this area are located largely on the west side of Hydraulic. The area's configuration is defined by I-35, I-135, 47<sup>th</sup> Street South and the Arkansas River.

The Wichita Access Management Policy would require that Hydraulic have a 60-foot half-width ROW (10-feet more than what presently exists). The policy would also require 200 feet between right-in right-out openings, and 400 feet between full movement openings. All applicable codes and development standards would apply to the subject site.

**CASE HISTORY:** The site's area was annexed into the City sometime between 1961 – 1970.

**ADJACENT ZONING AND LAND USE:**



NORTH: "LC", "B", "SF-5" "GC", "LI"	churches, auto repair, indoor roller skating rink, undeveloped land, twin screen drive in movie, convenience store, a utility
SOUTH: "MH", "TF-3"	manufactured housing complex, apartments
EAST: "MH"	manufactured housing complex
WEST: "SF-5", "LC"	single-family residences, small retail

**PUBLIC SERVICES:** The site has access to Hydraulic Avenue, a four-lane arterial, with 50-foot of half-street right-of-way. Average daily trips (ADT) south along this section of Hydraulic are approximately 13,000 ADT. The 2030 Transportation Plan projects traffic along this section of Hydraulic to increase to approximately 17,000 ADT. Municipal sewer and water services and all other utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "urban residential." The "urban residential" category includes all densities of residential development found within the urban municipality. The requested "GO" zoning and the uses permitted in it would be classified as "local commercial" by the Guide. The "local commercial" category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The site's proposed "GO" zoning is closer in its order of position in the list of zoning districts to the existing, abutting "LC" and "MH" zoning than its current "SF-5" zoning, which is isolated from the adjacent (west of Hydraulic) "SF-5" zoned single-family residential subdivisions.

**RECOMMENDATION:** The proposed "GO" is more appropriate for the site than the site's current, isolated "SF-5" zoning. A protective overlay would help mitigate potential negative impact on the adjacent "SF-5" zoned residential subdivisions and the abutting "MH" zoned manufactured home complexes' residences. Staff recommends APPROVAL of the proposed "GO" zoning, subject to platting in a year and the following provisions of PO #197:

1. Prohibited uses on the site include limited and general correctional placement residences, private recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited.
2. On site pole lights shall be no higher than 15-feet, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required setbacks.

This recommendation is based on the following findings:

- 1) **The zoning, uses and character of the neighborhood:** The zoning in the area ranges from "SF-5," "TF-3," "B" and "MH" to "LC," "GC" and "LI." Uses include manufactured home complexes, single-family residences, churches, auto repair, convenience store, an electric substation, small retail, a roller skating rink and the last drive in theater in Wichita. There is also undeveloped land in the area, zoned "SF-5" and "B," and most of it is owned by the applicant/church.
- 2) **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned "SF-5" and abuts a "LC" zoned church (north side), an undeveloped, small "B" zoned property (north side) and (on its south and east sides) two "MH" zoned manufactured home complexes. There is one "SF-5" zoned single-family residence abutting a north portion of the site, as is a "SF-5" zoned electrical substation. Existing zoning and development in the area has made the subject site less attractive for single-family residential development.

- 3) Extent to which removal of the restrictions will detrimentally affect nearby property: Denial of the request would not impose any determinate affect on nearby properties. However, approval of the requested "GO" zoning with the proposed provisions of the PO would allow the property owner to develop the site with uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
- 4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship imposed on the applicant is primarily economic. Approval of the requested "GO" zoning with the proposed provisions of the PO would allow the property owner to develop the site with uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
- 5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "urban residential." The requested "GO" zoning and the uses permitted in it would be classified as "local commercial" by the Guide. The site's location along Hydraulic is appropriate for "local commercial" and the "GO" uses as permitted in the proposed PO are more compatible to existing uses and zoning than the site's current "SF-5" zoning.
- 6) Impact of the proposed development on community facilities: Traffic would increase with any development of the site, although the uses as permitted in the proposed PO, would generate traffic mostly during the working hours, with the possible exception of uses that would involve medical services and warehouse, self service storage, in that case evening and night traffic is a possibility. There is a seasonal increase of night traffic in the area generated by the remaining twin screen theater in Wichita. Platting will address access onto Hydraulic (and the additional 10-foot of ROW needed) as well any drainage issues created by development of the site.

**BILL LONGNECKER**, Planning staff presented the staff report. Staff is recommending approval subject to platting in one year, and the provisions of Protective Overlay #196. There has been ongoing dialogue between staff, the applicant and the Starlight Theatre, and in fact it was still going on between the applicant and the theater, and that staff was not sure about the resolution of the requested zoning's potential lighting and noise on the drive in. The applicant has requested that item #2 of the protective overlay have pole lighting no higher than 20 feet, and staff is in agreement.

**RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANT**, said expansion of First Pentecostal Church would force relocation of some bus parking (for storage purposes). He mentioned several relocation options that were discussed. Church would like to sell off "LC" to help subsidize their restoration of this site.

Discussions have occurred with the Starlight owner concerning light trespassing from this site to the Starlight to the north and affect their operations. In conjunction with staff, there is agreement of limiting the pole height to 20 feet and shielded from the north. "LC" allows lights up to 20 feet, and "GO" limits the height to 15 feet. There was agreement that both zoning protective overlays have the height of the lights allowed to 20 foot.

**JIM GOBLE, 716 MONROE STREET, DENVER, CO**, bought Starlight 10 years ago and has rehabilitated it. He had no problem with what the church would like to do; however, he pointed out several areas where lights could be a problem. He requested protection from those lights. He does not recall any reference to signage in the Staff report, and this could be detrimental to the Starlight. This would include signage, as well as backlit awnings. These movie screens reflect every bit of light from projections, as well as an ambient light in the area. He requested language that would protect the Starlight from signage or backlit awnings; would like some consideration on this.

**RUSS EWY**, does not think we would have a problem limiting sign heights. Typically, in Community Unit Plans, there are 16 to 20 foot height restrictions on monument style signs. He was not sure about the illumination questions. Ewy was willing to limit the size of signs to the monument style, and prohibit wall pack or canopy backlit lighting. This item is scheduled for next week's DAB, and that would allow enough time to have revised language before this item goes to City Council.

**MCKAY** asked if the agent would be willing to put what was said in writing to satisfy Mr. Goble.

**EWY** responded "yes."

**CHAIRMAN MITCHELL** requested that the agent and Mr. Goble meet in the ante-room to see if they can reach an agreement and report back to the Commission prior to the end of today's meeting.

At end of meeting (2:40 p.m.) – resumed discussion of this item.

**EWY** reported that they had a discussion and had come to a compromise. There is revised language for the protective overlay in both cases, and that he would provide this to staff, as he then read it to the Commissioners.

ZON2007-48 – Protective Overlay condition #2 – pole lighting shall be 20-foot in height, including base, hooded and directed onto the site away from abutting and adjacent residential zoning. They added shielding and directing light away from the north. In addition, flashing signs showing time, temperature, and other public service messages; rotating or moving signs; signs with moving lights; signs which create the illusions of movement are not permitted, including electronic or video message boards. Portable or off-site signs are not permitted; as well as, all free standing signs must be monument type and have a maximum height of 16 feet, and be placed perpendicular to MacArthur Road. Also, there is a limit of not more than 3 signs. For lighting, there would be an additional condition excluding the use of backlit canopy, neon or fluorescent tube on buildings is not permitted.

ZON2007-49 – Protective Overlay prevents directing any lights to the north. Lighting would share some of the similar restrictions for flashing signs and prohibit video or electronic message boards (flashing, moving, rotating types of signs), portable and off site signs would be restricted. Signage for GO portion be limited to a maximum of 16 feet and be a monument style. Include exclusion of backlit canopies and neon fluorescent tube lighting on buildings.

**GOBLE** agreed that everything is covered the way it was discussed, and he is fine with this.

**MOTION:** To approve subject to staff recommendation, and the agreement made between the applicant and the owner of the Starlight Theatre.

**JOHNSON** moved, **DOWNING** seconded the motion, and it carried (12-0).

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6. **Case No.: ZON2007-50/CUP2007-56-** Orthodontics Clinic Building, LC (owner); Acquisition Group, LLC, (contact purchaser); Professional Engineering Consultants, Inc., c/o Rob Hartman (agent) Request City zone change from "GO" General Office to "LC" Limited Commercial and DP-62 Chelsea Station CUP Amendment #10 to create Parcel 3A, allow LC commercial uses on Parcel 3A, and other modifications including reduced setback on property described as;

Lot 13, Brad Boone Addition, Sedgwick County, Kansas. Generally located on the west side of Rock Road one block south of Rockhill Street.

**BACKGROUND:** The applicant proposes to rezone 1.1 acre from "GO" General Office to "LC" Limited Commercial and amend DP-62 Chelsea Station Community Unit Plan to create Parcel 3A from Parcel 3.

The amendment and zone change would allow for the reuse of this parcel as a commercial rather than office parcel. Uses would be all uses permitted by right in the LC district except the following prohibited uses: correctional placement residences, pawn shops, taverns, nightclubs, asphalt or concrete plants, sexually oriented businesses and adult entertainment as defined by the City Code. Also, the uses of vehicle storage yards and general vehicle repair would be shown as prohibited, even though they are never permitted in the LC district. Outdoor storage would be prohibited.

The applicant has requested to reduce the building setback on Rock Road and along the south property line from 75 feet to 35 feet. Since this is a platted setback, a vacation action would be required also.

Currently the CUP prohibits billboards on parcels zoned LC (Parcels 1 and 2) and this also should apply to Parcel 3A if rezoned LC. The maximum building coverage of 30 percent, the floor area ratio of 1:0.40 and the maximum building height of 35 feet would be the same as currently allowed.

The proposed Parcel 3A is located on the southeast corner of DP-62, a large CUP including the quarter-section (160 acres) on the southwest corner of 21<sup>st</sup> Street North and Rock Road.

Currently a medical office occupies the subject tract. The remainder of Parcel 3, which would remain zoned GO, is restricted to offices and personal services and was developed with the understanding that the area now being requested for LC was under the same restrictions. To protect the office on the remaining portions of Parcel 3, additional screening is requested by staff.

West of Parcel 3, the property is developed with duplexes on property zoned "MF-29" Multi-family Residential (Parcel 5 of DP-62). The property north of Parcel 3 (Parcel \* of DP-62) is zoned MF-29 and is developed with a large apartment complex. The property to the northeast is part of a large shopping center, DP-191, that is zoned LC. A large estate located on 160 acres of property zoned "SF-5" Single-family Residential is located to the southeast. A rail-banked right-of-way abuts the property on the south and a furniture store and a bookstore on property zoned LC are located south of the rail-banked right-of-way.

**CASE HISTORY:** The property is platted as the Brad Boone Addition, recorded April 1, 1981. The CUP was originally approved in January 29, 1974. Three amendments have been processed since 2001. Amendment #7 was approved in 2001 subject to platting and would have divided Parcel 8 into two parcels; the new parcel along Rock Road would have been zoned LC and available for commercial/retail development similar to this request. However, the rezoning was subject to replatting that was never done. Thus, the amendment was considered denied and closed for failure to plat. Amendments #8 and #9 allowed greater building signage on Parcel 2 for two separate uses (Garts Sports and Best Buy).

**ADJACENT ZONING AND LAND USE:**

NORTH:	GO, MF-29	Office, apartment complex
SOUTH:	LC	Furniture store, bookstore
EAST:	LC, SF-5	Shopping center, large residential estate
WEST:	GO, MF-29	Offices, duplexes

**PUBLIC SERVICES:** The property is located on Rock Road, a principal arterial improved with four through lanes, dual left-turn lanes and right-turn accel/decel lanes. Traffic counts for 2006 were 26,240 vehicles per day on Rock Road at 21<sup>st</sup> Street North. No direct access is allowed onto Rock Road, rather the site is access from a cul-de-sac serving all of Parcel 3. Normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and

minimize detrimental impacts to other adjacent land uses.” The proposed uses are similar to the development on the property to the northeast and south, but could have detrimental impacts on the property to the southeast. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP does not conform to these guidelines. Rather, it is more like a stand-alone commercial parcel surrounded on the north and west by lower intensity office development.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2007-50) to LC Limited Commercial subject to platting of the property within one year;
- B. APPROVE Amendment #10 to DP-62, subject to the following conditions:
  1. Add to General Provision #7: For Parcel 3A, screening shall be in accordance with Article IV of the Unified Zoning Code of the City of Wichita. However, all service areas (trash dumpsters, loading docks, outdoor work and storage areas, mechanical and rooftop equipment) shall have solid screening if adjacent to office or residential property or visible from Rock Road. Such screening may be composed of solid evergreen, solid masonry or a combination of solid fence and evergreen and shall be reviewed and approved by the Director of Planning prior to issuing building permits and installed at the time development occurs.
  2. The following uses shall also be prohibited in Parcel 3A: vehicle repair, limited, service station, convenience store and nursery and garden center.
  3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-62) includes special conditions for development on this property.
  6. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: currently a medical office occupies the subject tract. The remainder of Parcel 3, which would still be zoned GO, is restricted to offices and personal services. West of Parcel 3, the property is developed with duplexes on property zoned “MF-29” Multi-family Residential (Parcel 5 of DP-62). The property north of Parcel 3 (Parcel \* of DP-62) is zoned MF-29 and is developed with a large apartment complex. The property to the northeast is part of a large shopping center, DP-191, that is zoned LC. A large estate located on 160 acres of property zoned “SF-5” Single-family Residential is located to the southeast. A rail-banked right-of-way abuts the property on the south and a furniture store and a bookstore on property zoned LC are located south of the rail-banked right-of-way.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (general office) but the proposed commercial uses are similar to those on the east side of Rock Road, the uses on the west side of Rock Road located one-eighth mile to the north and the property south of the rail-banked right-of-way.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The LC uses should be restricted to eliminate some of the more intensive auto-oriented commercial uses. Currently a medical office occupies the subject tract. The remainder of Parcel 3, which would remain zoned GO, is restricted to offices and personal services and was developed with the understanding that the area now being requested for LC was under the same restrictions. To protect the office on the remaining portions of Parcel 3, additional screening is requested by staff.
4. Length of time the subject property has remained vacant as zoned: The property is currently in use as an office site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The type of uses proposed are more in alignment with the property to the northeast and south and could have detrimental impacts on the property to the southeast. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP does not conform to these guidelines. Rather, it is more like a stand-alone commercial parcel surrounded on the north and west by lower intensity office development.
6. Impact of the proposed development on community facilities: The requested amendment and zone change could result in more traffic on Rock Road, but probably not a significant increment considering the substantial volume of retail and restaurant traffic already generated by Bradley Fair Shopping Center to the northeast and Tallgrass Center to the north along 21<sup>st</sup> Street North.

**DONNA GOLTRY**, Planning staff presented the staff report.

Responding to a question from **MCKAY** concerning what is different about the staff report distributed today, **GOLTRY** said that a reference in the staff report to platting was removed. Platting is not a recommended condition because the property is already platted.

**HENTZEN** commented that he had a hard time finding the site because the location was misreported.

**Goltry** responded that the correct location is on the west side of Rock Road, one block south of Rockhill Street.

**ROBERT HARTMAN, PEC, ON BEHALF OF APPLICANT**, said they are in agreement with staff comments. He mentioned that it has some additional screening, and they have eliminated some of the uses allowed under the zoning and created a separate parcel.

**MOTION:** To approve subject to staff recommendation, as revised.

**JOHNSON** moved, **BISHOP** seconded the motion, and it carried (12-0).

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7. **Case No.: CUP2007-52** – Jelo, Inc./PEC (Rob Hartman) Request DP-256 Amendment #3 to Parcel 3B to allow animal care, limited, on property zoned "LC" Limited Commercial on property described as;

Beginning at the Southwest corner of said Lot 3; thence bearing N 00 degrees 04'10" West along the West line of said Lot 3, a distance of 281.14 feet to a point on a curve to the left with a radius of 108.00 feet, chord bearing of S 86 degrees 20' 25" East, a chord distance of 91.50 feet; along said curve through a central angle of 50 degrees 07'41", an arc distance of 94.49 feet; thence bearing S 47 degrees 25'08" East, a distance of 155.45 feet; thence bearing S 42 degrees, 34'52" West, a distance of 82.13 feet; thence bearing S 00 degrees 04'10" East, a distance of 110.00 feet; thence bearing N 89 degrees 51' 48" West along the south line of said Lot 3, distance of 150.00 feet to the point of beginning. Generally located west of Founders Circle 1/10 mile south of 21st Street North.

**BACKGROUND:** DP-256, The Collective Commercial Community Plan (CUP) is located south of 21<sup>st</sup> Street and west of Founders Street (2111 North Collective Lane). The Collective CUP has nine parcels, one of which is Parcel 3B, located in the southeast quadrant of the CUP. Parcel 3B is zoned "LC," Limited Commercial but per the CUP the parcel is restricted to "NR," Neighborhood Retail uses, except that restaurants are not permitted in the southern 150 feet of the parcel. (Limiting the "LC" zoned Parcel 3B to "NR" uses and associated specific use prohibitions was the result of strong neighborhood opposition that existed at the time this CUP was initially considered. At that time, there were residential uses located immediately south of the Collective CUP and to the west. Those residents have since sold their properties and have moved.)

The parcel is 1.12 acres in size, permits up to 14,617 square feet of building coverage and floor area, building height is limited to 35 feet, two buildings are permitted and a 30-foot building setback is required along the southern property line.

The applicant is seeking to amend the CUP to allow "animal care, limited." "Animal care, limited" is a use providing veterinary services for small animals (household pets) for which there are no outside animal runs, and for which boarding facilities may be provided. The CUP has a pedestrian circulation requirement, architecture review requirement and requires screening of all dumpsters, loading docks and mechanical systems.

Abutting properties on three sides are zoned "LC," and located within the same CUP. Reserve area with detention ponds and open space are located to the north and west. Medical and dental offices are located to the east. Property to the south is zoned "GO," General Office and developed with Wichita Clinic medical offices.

**CASE HISTORY:** DP-256, The Collective Community Unit Plan and its associated "LC," zoning was approved in 2001 and platted as the Collective Addition in 2001. CUP2006-03, Amendment #2 reduced Parcel Three's 35-foot building setback to 26 feet. Case number CUP2007-46 was an administrative adjustment to shift parcel boundaries between Parcels 5, 5A and 5B. CUP2007-10 was an administrative adjustment to increase gross floor area to 9,000 square feet on Parcel 3A. CUP2006-28 was an administrative adjustment to shift the monument sign allowed on Parcel 5B to Parcel 5A.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC," Limited Commercial; Reserve B of the Collective Addition, detention pond  
SOUTH: "GO," General Office; medical offices  
EAST: "LC," Limited Commercial; medical/dental offices  
WEST: "LC," Limited Commercial; Reserve C of the Collective Addition, detention pond

**PUBLIC SERVICES:** Founders Street is a paved local street with a 30-foot half-width right-of-way at the site. All other public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide Map depicts this site as appropriate for "local commercial" uses. This category encompasses areas that contain

concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw. Medical offices are listed as one of the expected uses in this land use category.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land on three sides of the application area is located within the same community unit plan as the applicant's property, therefore they share the same zoning and similar development restrictions and standards. The property to the south is zoned "GO," General Office and developed with medical offices.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" but per the CUP the parcel is restricted to "NR," Neighborhood Retail uses, except that restaurants are not permitted in the southern 150 feet of the parcel. As pointed out above, the restrictions on the "LC" zoned parcel under consideration are probably no longer relevant due to the rezoning and conversion of the properties to the south from residential to office. The site could be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed change should not detrimentally affect nearby properties as all activities will occur within an enclosed building, and the proposed use should not impact nearby properties any more than any other office or retail use.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional animal care services in a rapidly developing part of far eastern Wichita. Denial would force the applicant to secure another use for the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide Map* depicts this site as appropriate for "local commercial" uses. This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw. Medical offices are listed as one of the expected uses in this land use category.
6. Impact of the proposed development on community facilities: The site is adequately serviced by public facilities and should not impact those facilities to any greater degree than any other currently permitted use.

No one requested this case to be heard.

**MOTION:** To approve subject to staff recommendation.

MCKAY moved, JOHNSON seconded the motion, and it carried (12-0).

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8. **Case No.: CUP2007-54** – American Luxury Cinemas, Inc., / Spangenberg Phillips Architecture (Brad Teeter) Request DP-177 Amendment #3 to increase height from 47-feet to 60-feet and to reduce parking on property described as;



All of Lot 2 and 3, and part of Lot 4, Block 6, Sterling Farms Addition and Lots 1 and 2, Sterling Farms 5th Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street North and west of Tyler Road.

**BACKGROUND:** The applicant is requesting permission to increase building height from 47 feet to 66 feet, and to modify the required parking ratio from one space per 3.3 seats to one space to 3.5 seats. The existing height and parking standards were established by CUP2007-02 on March 3, 2007, when the applicant proposed to add 626 seats to the complex and was approved a building height increase from 35 feet to 47 feet. The current proposal would replace those previous requests.

The application area is what was originally Parcels 2-4 (that were combined into one parcel by CUP2007-2, Amendment #2) of DP-177, located north of west 21<sup>st</sup> Street North and approximately ¼ mile west of north Tyler Road. Combined Parcel 2-4 of DP-177 is developed with the West Wichita Warren Movie Theater complex, and the theater's parking field.

The applicant desires to add on to the existing facility. The proposed addition would extend south towards 21<sup>st</sup> Street, along the site's western property line. Two additional screens would be added to the complex. According to the applicant, one of these screens would be the world's largest movie screen. The larger of the two seating areas would have 780 seats while the new smaller screening area would have 413 seats, for a total of 1,193 seats.

The Unified Zoning Code ("UZC") requirement for onsite parking for a theater use is one parking space per three seats. The site currently has 1,327 onsite parking spaces, which yields a 1 space to 3 seats ratio, but was approved for a 1 to 3.3 ratio with Amendment #2. The theater complex currently has 3,479 seats and 17 screens. The applicant will lose 430 seats from its current count, and will add 1,193 seats for a total seating capacity of 4,242 when the addition is completed. As currently figured, the site is estimated to generate 1,009 average trips on any given Saturday that a matinee is shown. The new seating configuration is estimated to generate 1,230 average Saturday trips when a matinee is shown.

**CASE HISTORY:** DP-177 was approved in 1987. The property is platted as Lots 2-4, Block 6, Sterling Farms Addition, recorded February 22, 1989 and Lots 1-2, Sterling Farms 5<sup>th</sup> Addition, recorded September 13, 1995. Amendment #1 for an indoor amusement park (Miner Mike's) was withdrawn after receiving a recommendation for denial from MAPC and CPOs in March of 1995. CUP2007-02, Amendment #2 increased building height to 47 feet and established a one space to 3.3 seats parking ratio.

When CUP2007-02 was considered by the MAPC, neighbors from The Pines neighborhood, located on the south side of 21<sup>st</sup> Street, objected to the proposal citing traffic and lighting concerns. It appeared the neighbors' traffic concerns were addressed by the installation of a "no left turn" sign out of the theater's westernmost drive, which is located north of The Pines. The applicant indicated the neighbors' concerns regarding lighting would be addressed by the removal of several parking lot light poles when the building expanded into the parking lot.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5,"	Single-family Residential; Sterling Farms Subdivision
SOUTH:	"LC,"	Limited Commercial and "MF-18," Multi-family Residential; Patio homes and shopping center
EAST:	"LC,"	Limited Commercial; shopping center
WEST:	"GO,"	General Office; Apartment complex

**PUBLIC SERVICES:** The property is located on principal arterials. Traffic counts for 2006 on 21<sup>st</sup> Street North were approximately 30,000 vehicles per day. The counts were approximately 9,000 on the north corner Tyler Road, and 15,000 on the south corner. The proposed expansion should increase traffic somewhat. Currently, the theater has one major entrance on 21<sup>st</sup> Street North and one on Tyler Road, and

two minor entrances on 21<sup>st</sup> Street North. The westernmost opening is posted by the theater as a right-turn only exit. This access point is offset approximately 35 feet from the only entrance to The Pines, and causes a conflict of overlapping left-turns into The Pines and the Warren Theater.

**CONFORMANCE TO PLANS/POLICIES:** The *2030 Wichita Functional Land Use Guide*, identifies this area as appropriate for “local commercial” uses. The commercially developed property, approximately 24 acres, exceed the size shown for local commercial, 6-10 acres, and the theater use draws its audience from a larger area than west Wichita. The MAPC has a record of supporting the expansion of existing businesses.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The CUP shall be revised to redefine the applicant’s property as a single parcel consisting of Parcels 2-4, Sterling Farms Addition and the portion of Parcel 2 containing Lots 1-2, Sterling Farms 5<sup>th</sup> Addition. No changes shall be made to the existing development rights for that portion of Parcel 2 contained in Lots 3-4, Sterling Farms 5<sup>th</sup> Addition and Lots 5 and 6, Block 6 Sterling Farms Addition.
2. Building height may be increased from 47 feet to 66 feet for the expansion located on the western side of Parcels 2, 3 and 4, but no closer than 130 feet of the south property line.
3. Parking is established at 1 parking space to 3.5 seats for the existing theater use.
4. The westernmost access point on 21<sup>st</sup> Street North shall be limited to right-turn movements only with channelization.
5. Any major changes in this development plan shall be submitted to the Planning Commission and the City Council for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the MAPC, or the City Council, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-177 consists of three additional parcels at the corner of 21<sup>st</sup> Street North that are zoned “LC” and a large apartment complex on the west side of Parcel 2 that is zoned “GO,” General Office. The “LC” parcels at the corner are developed with a bank and two multi-tenant commercial buildings. The property to the north of DP-177 is a single-family residential development, Sterling Farms. Shopping centers on property zoned “LC” are located on all four corners of the intersection of 21<sup>st</sup> Street North and Tyler Road. The property south of 21<sup>st</sup> Street North is zoned “MF-29,” Multi-family Residential and developed with condominium patio homes, The Pines.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned “LC,” Limited Commercial, and is currently developed with a theater, and could continue to be used as currently zoned and approved by the CUP. However, the theater business is a highly competitive industry requiring upgrades and improvements to maintain a first class facility that will retain customer loyalty.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Given the fact the site is already developed with a theater use, and has already previously received approval to increase height to 47 feet; increasing height to 66 feet and modestly amend the parking

standard should not detrimentally affect nearby properties to any greater extent than the current use.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would improve an entertainment venue that is a regional draw, while denial would presumably make the facility less competitive over time.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide*, identifies this area as appropriate for “local commercial” uses. The commercially developed property, approximately 24 acres, exceed the size shown for local commercial, 6-10 acres, and the theater use draws its audience from a larger area than west Wichita. The MAPC has a record of supporting the expansion of existing businesses.
6. Impact of the proposed development on community facilities: The westernmost opening is posted by the theater as a right-turn only exit, but physical improvements could be installed to effectively force left-turns only. Other facilities are in place to serve the site.

**DALE MILLER**, Planning staff presented the staff report.

**DENNIS** commented that the main concern of neighbors to the south was preventing left-hand turns, and he thought that it was agreed that a “pork chop” would be installed to prevent left-hand turns. He said the staff report said “no left hand turn sign”, and he wanted to know what happened to the pork chop.

**MILLER** Traffic Engineering was satisfied with the “No Left Turn Sign” at entrance. DAB was to hear this case on Monday night.

**SCHLEGEL** questioned **MILLER** whether the pork chop was included in the previous action on this item.

**MILLER** recalled that it was an either or situation, the sign or the pork chop.

**BRAD TEETER, SPANGENBERG PHILLIPS, AGENT FOR THE APPLICANT**, said they intended to install a pork chop curb with the signage. This has been delayed until the start of the remodel project.

**MOTION:** To approve subject to staff recommendation and with the pork chop.

**HILLMAN** moved, **DENNIS** seconded the motion, and it carried (12-0).

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9. **Case No.: CUP2007-55** – Thirteenth & Maize, LLC c/o Alcino Cruzeiro / SourceOne Car Wash Company (applicant/owner); Baughman Company, P.A., c/o Russ Ewy (agent) Request DP-214 Amendment #1 to reconfigure Parcels 3 and 5 and allow a car wash on the reconfigured Parcel 3 on property described as;

Lots 3 and 5, Block 1, Brandt Commercial Addition, Sedgwick County, Kansas. Generally located on the southwest corner of Maize Road and 13th Street North.

**BACKGROUND:** The applicant proposes to amend the “LC” Limited Commercial zoned CUP DP-214 to allow an automated one bay car wash on a proposed reconfigured Parcels 3 and 5. Parcel 3 will become larger and the site of the proposed car wash. A car wash is not listed as a permitted use in DP-21, thus the required amendment to DP-214.

The proposed car wash is completely enclosed automated, with customers driving their cars to one of two gated lanes, where they will proceed to select the type of wash they want from a menu board and then pay to enter the car wash. After paying, the customer drives to the entrance bay door of the car wash and remains in their car as it advances, via a conveyor system, through the automated car wash. The bay doors on the entrance and exit will remain open during fair weather, but raise and close for each individual car during foul weather. There will be a manager and an employee on site during the 8AM – 8PM hours of operation, seven days a week. The site plan does not identify parking from vacuum islands areas and shows four unidentified rectangular objects on what may be the south side of the site. There is no directional arrow on the site plan, but the site plan does show access onto unidentified ROW, which can be assumed to be Maize Road. The exit bay door of the car wash appears to be facing Maize Road, which is prohibited by DP-214 under “Parcel Number 3: Proposed Uses.” There is no dimension control on the site plan. No lighting is shown on the site plan, although the applicant has told Staff that 15-foot tall (total height including base) pole light is acceptable. There is a proposed 13.68% increase in the gross area of Parcel 3 (acceptable), but a decline of 0.03% in gross floor area. The loss of 5,000-square feet of gross area from the gross area of the 4.97-acre Parcel 5 (the largest parcel in the CUP) is not significant.

The only development located within DP-214, is a small retail strip, built in 2005, which is located on the abutting south parcel; the rest of DP-214 is vacant. The other adjacent southern properties are zoned “SF-5” residential CUP with apartments and “SF-5” zoned single-family residences: both are located approximately 165-feet south of the site. East of the site, across Maize is the nearest residential zoning and development, “TF-3” Duplex Residential zoned single-family residences, built from the late 1960s to 1980. There is also “LC” zoned property on the southeast corner of Maize and 13<sup>th</sup>, with development including a Quick Trip convenience store (1990), an auto repair garage (1990) and a day care center (1981). North of the site, across 13<sup>th</sup>, are “LC” zoned properties developed as a bank/savings and loan (2000) with a drive through, strip retail – medical – office development (1991 and 2000), and two more auto repair garages (1978 and 1998), with at least one of the garages having their bay doors opening onto Maize Road. There is also a “LC” zoned vacant convenience store with a vacant car wash (BZA28-88) and undeveloped property. The vacant car wash was not automated. Taking into consideration the vacant convenience store and its car wash, maybe half of the “LC” property at the 13<sup>th</sup> – Maize intersection is not developed. West of the site there is a “PUD” zoned retirement complex (2001), located approximately 490-feet from the site.

**CASE HISTORY:** DP-214 and Z-3139 were approved August 30, 1994, subject to platted within a year. The Brandt Commercial Addition was recorded November 14, 1994.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“LC/CUP,” “LC”	Undeveloped, bank, auto repair, vacant convenience/car wash
SOUTH:	“LC/CUP,” “SF-5/CUP,” “SF-5”	Undeveloped, apartment, single-family
EAST:	“TF-3,” “LC”	Single-family, convenience store, auto repair, day care
WEST:	“PUD”	Retirement complex

**PUBLIC SERVICES:** Maize Road and 13<sup>th</sup> Street North are four-lane arterial roads with right, left and center turn lanes at this location. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market area. The “local commercial” category’s uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. A car wash is listed as a permitted use in the “LC”

zoning district, but if it is located within 200-feet of residential zoning it can only be considered a Conditional Use. The site is located within 200-feet of residential zoning and DP-214 does not list car washes as a permitted use, thus the proposed amendment.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with Strategy III.B.1 seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and Strategy III.B.2 seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials and combined ingress/egress locations. Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas.

**RECOMMENDATION:** The immediate area contains a failed convenience store and its car wash (built 1988), which means that this proposed car wash is not the first proposed for the area. A completely automated facility with continuous on-site staff during its 8AM – 8PM operation hours, the provisions of the CUP, all applicable standards of the Unified Zoning Code (UZC), and the landscape ordinance will help to minimize the negative impact of the proposed facility. Based upon information available prior to the public hearings, planning staff recommends that the request for Amendment #1 to CUP DP-214, to allow a car wash on the reconfigured Parcel 3 be APPROVED, per General Provisions of the CUP, the Provisions for parcel #3 and the following conditions:

1. In addition to uses permitted for Parcels 3, per CUP DP-214, Parcel 3 shall be allowed an enclosed, fully automated/conveyer propelled, one bay car wash. The bay doors on the entrance and exit shall not be facing Maize Road or the applicant can ask for this condition of the CUP to be waived. A minimum of two staff shall be on the car wash site, during its 8AM – 8PM hours of operation, 7 days a week. The vacuum islands will be placed as far away from Maize Road as possible, not in any setbacks and they will not be operating in off hours, when the facility is not operating. Pole lighting shall be a total of 15-feet in height (including the base) and not placed in any setbacks and comply with the lighting standards of Sec IV-B.4. The noise standards of Sec IV-C.6 shall be complied with. Access will be from Maize Road and or 13<sup>th</sup> Street North. The circulation plan must be approved by the Traffic Engineer. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines or parking spaces. A 6-foot wooden fence shall be placed along the rear and interior sides of the site. All drainage created by the operation and development of the site shall be handled in a matter satisfactory to the Department of Public Works.
2. The applicant shall submit a revised site plan and CUP document for review and approval by the Planning Director, prior to the operation of the car wash, within six months of approval by the MAPC or the City Council. The site plan will include dimension control and show all aspects of the car wash facility. Elevations of the car wash facility will be provided for review and approval. Materials and signage will be per the provisions of DP-214. The site will be developed according to the revised site plan and the revised CUP document. The site plan will also give the final revised total dimensions, gross area, and floor area ratio of Parcels 3 & 5.
3. The applicant shall install and maintain landscaping in accordance with General Provision #16 and the current landscape ordinance.
4. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations, including all the provisions of CUP DP-214.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Amendment #1 to CUP DP-214, the Zoning Administrator, in addition to enforcing the other

remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: "LC" zoned properties are located on all four corners of the Maize –13<sup>th</sup> intersection, with maybe half of it developed. There is a failed convenience store with its (not automated, no bay doors, one bay) car wash located on the northeast corner of the intersection. The most recent developments are a bank/savings and loan (with a drive through) and an office strip, both built in 2000. Single-family residential development was firmly established in area in the 1970s.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial with a CUP overlay. The property is suitable for the commercial uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The biggest concerns with a car wash is that they can become a dirty, noisy, off hours gathering spot if allowed to stay open all 24 hours of a day, with no onsite staff to supervise and maintain the facility. The proposed enclosed, fully automated, conveyer propelled car wash is open 8AM – 8PM (7-days a week), and will have a minimum of two onsite staff present during its operation hours, all which will contribute to a quieter, cleaner, supervised operation.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The failed car wash established this type of use in the area and there are also three auto repair garages in the area. The proposed car wash would not be introducing a use that has not already been established.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Approximately half of the "LC" zoned property in the area is either undeveloped or vacant, so any commercial development in the area will increase the traffic in the area.

**BILL LONGNECKER**, Planning staff presented the staff report. He reported that he had received one letter of protest on the case.

**HENTZEN** asked where patrons are to exit, and are the gates to be closed after 8:00 p.m.

**LONGNECKER** showed the exit onto Maize Road, which is platted with a shared exit. He said gates to the car wash would be closed at 8:00 p.m.

**BISHOP** asked if the menu board was to be amplified, and if the conveyor driven car wash would have a lowered garage door on the Maize Road side.

**LONGNECKER** responded "no"; however, he did say the menu board would have a pre-recorded "voice," which would give instructions to the customer. He also noted that the staff report had stated that the doors to the car wash would be opened and closed for individual cars using the facility during foul weather, but that they would stay open during fair weather, meaning no ice or snow.

**BISHOP** said she thought the Wichita Police Department had requested that any orientation for a car wash be angled so that the wash bays faced the street, so the police could see inside the facility, and thus,

provide more security. She asked is this was the reason for the request to waive the CUP's requirement that bay door not face Maize Road.

**LONGNECKER** said that issue has not been part of the discussion. He said the CUP specifically says bay doors cannot face Maize Road, but to fit the facility onto this parcel, because of its size and configuration, the exit bay door had to face onto Maize Road.

**HILLMAN** asked if there was fencing between the exit and Maize Road itself.

**LONGNECKER** said "no," but there would be landscaping per the Landscape Ordinance.

**PHIL MEYER, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANT**, said he wanted to clarify some of staff's comments. North of the existing strip center, he is requesting temporary cedar fencing to meet the fencing requirement. They would construct the fencing from the back of the building to the west and west line until such time as the rest of this site is developed. They do not plan to construct a fence along the north property line since it goes towards 13<sup>th</sup> Street. The screening would be on the south line from the building west to the west line. A joint driveway would be shared between the car wash facility and strip center. The speaker boards are animated for directions. There are central vacuums, and the blowers are contained inside the building.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **VAN FLEET** seconded the motion, and it carried (12-0).

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- 10. Case No.: CUP2007-57** – Triple J of Wichita, LLC & Value Place Real Estate Services, LLC (Dave Matson) / Ruggles & Bohm (Terry Smythe) request DP-228 Amendment #1 to create a new parcel and reconfigure an existing parcel, to revise signage, to extend height allowed for signage, to revise solid screening requirements and materials, and to revise building material requirements on property described as;

Lot 3, Block 1, and Reserve A, Cornejo North Addition, Wichita, Sedgwick County, Kansas.  
Generally located On the north side of K-96, south of Willowood and 34th Street North, on the east side of Woodlawn Avenue.

**BACKGROUND:** The application area is Parcel 6 of DP-228, the Woodlawn Power Center Community Unit Plan, located north of K-96 Expressway and east of Woodlawn Avenue. DP-228 currently is divided into two parcels, Parcels 5 and 6, that were originally part of DP-95, which contains Parcels 1-4, located south of K-96. (K-96 ran through the middle of DP-95, separating Parcels 1-4 from Parcels 5 and 6.) In 1997, DP-228 was created. The parcels were rezoned to "LC," Limited Commercial, but the original parcel numbers, 5 and 6 were retained. The subject of this request is Parcel 6. The applicant is seeking to divide the six acres of Parcel 6 in two, leaving Parcel 6 with four acres. The remaining two acres would become Parcel 7. The applicant proposes to develop the newly created parcel with a hotel containing 124 units. In order to accomplish this division of Parcel 6, signage rights, access controls, screening and architectural controls need to be modified.

Specifically, the applicant is seeking to modify the CUP in the following ways:

Divide Parcel 6 into two parcels: Parcel 6 would be reduced to 4 acres while the newly created Parcel 7 would have 2 acres. Permitted uses for both parcels would remain the same as before: ATM, animal care, limited; bed and breakfast inn, bank or financial institution, car wash, construction sales and service, convenience store, hotel or motel, marine facility, medial service, office, accessory and commercial parking, personal care services, personal improvement services, printing and copying, limited; recreation

and entertainment, indoor; general retail, restaurant, service station, vehicle repair, limited and cemetery. Parcel 6 would have a: net area of four acres; a floor area ratio of .30; a maximum building coverage of 52,272; a maximum gross floor area of 156,816 square feet and a maximum building height of 40 feet. Parcel 7 would have a: net area of two acres; a floor area ratio of .30; a maximum building coverage of 26,136 square feet; a maximum gross floor area of 78,408 square feet and a maximum building height of 48 feet.

General Provision 5, Parcel 6 deals with signage, which currently permits the parcel to 150 square feet along Woodlawn, 50 square feet along 34<sup>th</sup> Street (Willowood) and 175 square feet along K-96; and Parcel 6 is allowed to have its sign along Woodlawn within 150 feet of Parcel 5's sign. The applicant proposes to reduce Parcel 6's signage along K-96 from 175 to 141 square feet, and grant Parcel 7 250 square feet of signage along K-96.

A new General Provision 5A would be added – Signage along Woodlawn shall be limited to 20 feet in height and monument type signs (if approved, the applicant shall substitute this wording for that submitted). Signs along K-96 shall be allowed to be 35 feet in height for Parcel 6, and 50 feet in height for Parcel 7 (if approved, the applicant shall substitute this wording for that submitted).

Modify General Provision 14 dealing with access control. Currently, Parcel 6 access to Woodlawn is limited to one opening, and access to 34<sup>th</sup> Street (Willowood) is limited to one opening. Access is shared with Parcel 5. Proposed language is - Access to Woodlawn by Parcels 6 and 7 shall be limited to one opening, and access to 34<sup>th</sup> Street (Willowood) shall be limited to one opening. Access shall be shared with Parcel 5. Essentially the access control remains the same other than ensuring that Parcel 7 has rights to the original access controls.

General Provision 15 currently requires an eight-foot solid screening wall constructed of stone, masonry, or architectural tile shall be constructed along common property lines that are adjacent to residential districts. The applicant proposes to construct a six-foot wrought iron type fence with landscaping.

General Provision 18 currently requires trash receptacles to be screened with a masonry wall to reasonably hide them from ground view. The applicant proposes to replace the masonry wall with a wood fence and landscaping.

General Provision 20 currently requires all building exteriors within Parcels 5 and 6 to share the same predominate exterior building material, color and texture. The applicant proposes that all buildings within Parcels 5, 6 and 7 shall compliment other buildings in the CUP.

The applicant also seeks to install a 125 square-foot building sign that faces east, which requires 150 feet between the sign and the property line. The applicant only has 136 feet. The applicant can seek an administrative adjustment to permit the sign without the required separation or the shortfall can be addressed with this amendment. The applicant requests a reduction of the setback from 150 feet to 136 feet.

The northern 158 feet of Parcel 6 adjacent to Woodlawn is a drainage easement established by separate instrument. The western 160 feet of Parcel 5 of DP-228 is developed with two vehicle repair uses. The property to the north of 34<sup>th</sup> Street is zoned "LC" and developed with closed convenience retail and a car wash. Property to the northeast is developed with a church and zoned "MF-29," Multi-family Residential; land to the east is zoned "TF-3," Two-family Residential and developed with a religious institution. Property to the west of Woodlawn is zoned "SF-5," Single-family Residential and developed with a park.

Hotel uses generate approximately 9 average daily trips per day per room, which results in a 1,116 average daily trips.



**CASE HISTORY:** As indicated above, DP-228 was approved in June 1997. The property is platted as the Cornejo North Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH: “LC,” Limited Commercial, “MF-29,” Multi-family Residential; convenience store and car wash, church  
SOUTH: “GC,” General Commercial; K-96 Highway; Home Depot  
EAST: “TF-3,” Two-family Residential; religious institution  
WEST: “SF-5,” Single-family Residential, “LC,” Limited Commercial; park, single-family subdivision and vehicle repair

**PUBLIC SERVICES:** Woodlawn Avenue has approximately 96 feet of right-of-way, and is developed with a four lane arterial carrying between 13,721 to 16,530 average daily trips. 34<sup>th</sup> Street (Willowood) has 70 feet of right-of-way and is developed as a two-lane local street. 34<sup>th</sup> Street acts as a collector street running from Rock to Woodlawn Avenue. All other public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The site is already zoned “LC” and permits a wide range of commercial uses, including hotel or motel. The “2030 Wichita Functional Land Use Guide” depicts the site as appropriate for local commercial uses. Local commercial areas contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Parcel 6 is divided into two parcels: Parcel 6 is reduced to 4 acres while the newly created Parcel 7 contains 2 acres. Permitted uses are as currently permitted: ATM, animal care, limited; bed and breakfast inn, bank or financial institution, car wash, construction sales and service, convenience store, hotel or motel, marine facility, medial service, office, accessory and commercial parking, personal care services, personal improvement services, printing and copying, limited; recreation and entertainment, indoor; general retail, restaurant, service station, vehicle repair, limited and cemetery. Parcel 6 has a: net area of four acres; a floor area ratio of .30; a maximum building coverage of 52,272; a maximum gross floor area of 156,816 square feet and a maximum building height of 40 feet. Parcel 7 has a: net area of two acres; a floor area ratio of .30; a maximum building coverage of 26,136 square feet; a maximum gross floor area of 78,408 square feet and a maximum building height of 48 feet.
2. Modify General Provision 5 - Parcel 6 is permitted 141 square feet of signage along K-96; Parcel 7 is permitted 250 square feet of signage along K-96.
3. Add General Provision 5A – Signage along Woodlawn shall be limited to 20 feet in height and monument type signs. Signs along K-96 shall be allowed to be 35 feet in height for Parcel 6, and 50 feet in height for Parcel 7.
4. Modify General Provision 14. Access to Woodlawn by Parcels 6 and 7 shall be limited to one opening, and access to 34<sup>th</sup> Street (Willowood) shall be limited to one opening. Access shall be shared with Parcel 5.
5. Modify General Provision 15 to permit the construction of a six-foot wrought iron type fence with landscaping along the east property line.
6. Modify General Provision 18 to permit wood fence and landscaping screening surrounding the trash dumpster.
7. Modify General Provision 20 to require that buildings within Parcels 6 and 7 shall architecturally compliment the other buildings in the CUP. Metal shall not be the predominate exterior building material.
7. Permit the applicant to install a 125 square-foot building sign that faces east.

8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 30 days after the final approval of the amendment, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are predominately commercial or institutional, except for the park and single-family subdivision located northwest of the site. Properties are zoned "SF-5," "LC," "MF-29" or "TF-3." The area around the application area is located on the northeast corner the intersection of a four-lane arterial street, Woodlawn, and a regionally significantly divided four-lane highway, K-96.
2. The suitability of the subject property for the uses to which it has been restricted: The applicant is seeking to modify the signage, access and screening requirements of an existing, approved development plan. The proposed hotel use is a currently permitted use; the applicant is not seeking to modify the list of permitted uses. The property could be developed as currently zoned, however, the requested changes would modify this site's development standards to more effectively meet the applicant's specific development and operational needs. The request for additional height for the pole sign is necessitated by the K-96 overpass of Woodlawn. A shorter sign would not be visible to east bound K-96 traffic in time to make the Woodlawn exit.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of these requests should not appreciably detrimentally affect nearby properties given the fact that all properties abutting the site are either institutional or commercial uses.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would add to the inventory of hotel rooms available within the Wichita area. Denial would presumably be an economic hardship to the property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts the site as appropriate for local commercial uses. Local commercial areas contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
6. Impact of the proposed development on community facilities: Public facilities are in place to accommodate anticipated demands.

**DALE MILLER**, Planning staff presented the staff report.

**MILLER STEVENS** had signage questions. Will the signage along K-96 be of the LED type?

**MILLER** showed the sign submitted with the application. This may be a reader board type.

**HILLMAN** questioned whether there are other buildings in the area (of this kind and size). Also, does the Fire Department have equipment in this area to reach the building with 4-story levels?

**MILLER** said he cannot answer for the Wichita Fire Department, but assumes they have equipment to handle the potential fires for this district.

**TERRY SMYTHE, RUGGLES AND BOHM, AGENT FOR THE APPLICANT**, referred to a hand out, specifically page 3 (site plan) and page 10 (sign). He explained their reasons for wanting higher and bigger signs.

**MILLER-STEVENSON** asked about lighted signage opposite the residential side.

**SMYTHE** responded that the tall sign is along the highway, opposite the Home Depot sign. There has been some discussions regarding brightness of these LED signs; they have been toned down.

**MILLER-STEVENSON** asked if the signs on the north side would be lighted.

**KYLE CLEMENTS, SITE ENHANCEMENT SERVICES** responded that the wall sign would be internally illuminated; it is more of a glow. The pylon signs have electronic and automatic dimmers.

**SMYTHE** said they had a meeting with the Homeowners Association and discussed with them specifics concerning sign heights and where traffic was coming from. They meet with the DAB this coming Monday.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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- 11. Case No.: ZON2004-68/CUP2004-60** (This case was deferred from 8/16/07.) – II Sik Hong, and Builders, Inc., (applicant); Greg Allison, MKEC (agent) Request County zone change from "SF-20" Single Family-Residential to "LC" Limited Commercial and creation of DP-281 Rock Road Plaza Commercial CUP on property described as;

Generally located The southeast corner of 31st Street South and Rock Road.

**BACKGROUND:** The applicant proposes to create a commercial community unit plan, DP-281 Rock Road Plaza Community Unit Plan, on a 24-acre tract (net size 20.99 acres) and rezone a 16-acre tract from "SF-20" Single-family Residential to "LC" Limited Commercial. The property is located on the southeast corner of Rock Road and 31<sup>st</sup> Street South. The CUP would have five parcels for commercial use. Parcel 1 (1.27 acre) would be located at the intersection. Parcels 3 (1.49 acre) and 5 (1.27 acre) would be small parcels located along Rock Road. Parcel 2 (10.02 acres) would surround Parcel 1 and have frontage on both Rock Road and 31<sup>st</sup> Street South. Parcel 4 (6.92 acres) would be located farther south and have a narrow strip of land connecting to Rock Road.

The proposed CUP is within the study area of the Joint Land Use Study "JLUS" conducted jointly by Sedgwick County, the City of Wichita and the City of Derby to identify compatible land use with the continued operation of McConnell Air Force Base, and is within the "AT/FP-O" Anti-Terrorism/Force Protection Overlay District.

Requested uses are those allowed by right in LC except excluding uses considered incompatible due to proximity of the site to McConnell Air Force Base, including the following excluded uses: all residential uses; church or place of worship; college or university; convalescent care facility, limited and general; group home, limited, general and commercial; hospital; library; school, elementary, middle and high; bed and breakfast inn; hotel or motel; vocational school; night club in the city; night club in the county; tavern and drinking establishment; and recreation and entertainment, indoor, adult entertainment establishments, sexually oriented businesses, correctional placement residences, safety service, bed and breakfast inn, hotel and motel, vocational school, night club in the city, pawn shop, agricultural sales and service, and asphalt/concrete plants. Restaurants shall not have drive-through windows or in-car service located within 200 feet of residential zoning and order boards shall not be audible from the residential property lines. No overhead doors shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district.

The CUP references the need for noise attenuation methods in construction and a real estate disclosure process of the locating near a military base.

Maximum height is 25 feet. Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent for each parcel, but the overall total for the CUP would be limited to 30 percent, indicating that densities may be lessened on some parcels if others are built out to the full 35 percent capacity. The number of buildings permitted would be two on Parcels 1, Parcels 3 and 5, and five on Parcels 2 and 4. Setbacks would be 35 feet on along Rock Road and 31<sup>st</sup> Street South and exterior property lines. Internal setbacks are 15 feet. A six-foot masonry wall would be required along residential zoning, except the applicant asked to waive this requirement along the existing trees if the trees are maintained as a solid screening buffer.

Buildings would have uniform architectural compatibility and parking lots and similar or consistent lighting elements, limited to 24 feet in height (lowered to 15 feet within 100 feet of residential zoning or residential use) and share a similar landscape palette. It includes provisions for cross-lot circulation, internal parking lot circulation and pedestrian connectivity.

Monument signage is requested with a maximum height of 20 feet. Portable and off-site signs would be prohibited. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or creating the illusion of movement would be prohibited. Ground signage would be limited to monument style signage with a maximum height of 20 feet and sign face area of 120 square feet per sign, and the total amount of sign face area not exceeding 0.8 times the linear frontage for Rock Road, an arterial street, and 0.5 times linear frontage for 31<sup>st</sup> Street South, a two-lane urban collector street located across the street from residential use.

The site currently is in agricultural use. The property to the north and west is zoned “AFB” Air Force Base and is the site of McConnell Air Force Base on the west and base housing on the north. The property to the east is zoned SF-20 and is in agricultural use. The property to the south is zoned SF-20 and is in agricultural use, but was approved for LC and DP-300 Rocky Ford CUP subject to platting. Similarly, the property to the southeast is zoned SF-20 and in agricultural use, but was approved for “IP” Industrial Park zoning subject to platting.

**CASE HISTORY:** The property is not platted. The zone change/CUP request originally was filed in 2004 but was deferred pending the JLUS study and adoption of the AT/FP-O. The request originally included a 19-acre tract to the south that was re-filed and approved for commercial development as a separate tract (CUP2006-32/ZON2006-28 DP-300 Rocky Ford Commercial CUP).

**ADJACENT ZONING AND LAND USE:**

NORTH:	AFB	Residential (base housing)
SOUTH:	SF-20	Vacant (approved for LC subject to platting)
EAST:	SF-20	Agricultural/undeveloped
WEST:	AFB	McConnell Air Force Base

**PUBLIC SERVICES:** Currently, Rock Road is improved as a four-lane undivided principal arterial roadway. 31<sup>st</sup> Street South is a two-lane urban collector. Requested access consists of two full movement openings and one right-in/right-out opening onto Rock Road and one full movement opening and two right-in/right-out openings onto 31<sup>st</sup> Street South.

Traffic counts in 2006 (county counts) were 17,404 vehicles on Rock Road and 923 vehicles on 31<sup>st</sup> Street South. The 2030 projection for Rock Road is 31,500 vehicles per day in 2030.

The nearest public water and sewer service are approximately ¼ to ½ mile north of the property.

**CONFORMANCE TO PLANS/POLICIES:** The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center” use and shows the property as a “Potential Future Park Site”. The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the “Maximum Mission Area” identified by the Joint Land Use Study. The site is within the anti-terrorism/force protection zone around McConnell.

**Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”, with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, similar landscaping, and shared or similar signage. It provides for cross-lot circulation, an overall site circulation and pedestrian circulation plan and a site plan for each parcel to ensure compatibility with the overall plan.

**Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The CUP incorporates provisions for more restrained signage, less impact from drive-through lanes as well as lighting provisions.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2004-68) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-281), subject to the following conditions:
  1. Transportation improvements (to be added to General Provision #14):
    - a. Continuous accel/decel lanes (including extension of box culvert if necessary) shall provided for the three access points on Rock Road and shall be platted to be in conformance with Access Management Standards for distance separation.
    - b. Left-turn lanes for the two full-movement entrances on Rock Road shall be provided.
    - c. Additional right-of-way as needed to accommodate the extra lanes shall be provided at platting.
  2. No development shall be permitted until public water and sewer is available.
  3. The site shall be developed in substantial conformance to the approved community unit plan’s site plan, general provisions and individual parcel standards.
  4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  6. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  7. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-281) includes special conditions for development on this property.

8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
9. Add a General Provision to state: "In the event the United States Air Force requests closure of Rock Road in the vicinity of McConnell Air Force Base, the applicant acknowledges there will be a potential loss of business to the properties with the CUP. "

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use. The property to the north and west is zoned "AFB" Air Force Base and is the site of McConnell Air Force Base on the west and base housing on the north. The property to the east is zoned SF-20 and is in agricultural use. The property to the south is zoned SF-20 and is in agricultural use, but was approved for LC and DP-300 Rocky Ford CUP subject to platting. Similarly, the property to the southeast is zoned SF-20 and in agricultural use, but was approved for "IP" Industrial Park zoning subject to platting.
2. The suitability of the subject property for the uses to which it has been restricted: The area is less suitable for the use as currently zoned (suburban residential) since it is within the "Maximum Mission Area" of McConnell Air Force Base and within the one-half mile buffer zone of the base.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions are designed to minimize conflicts between the commercial development and McConnell Air Force Base by limiting heights and eliminating uses the base finds to be an anti-terrorism and force protection risk.
4. Length of time the subject property has remained vacant as zoned: The property is in agricultural use. Water and sewer service has not been extended to the site so that it not ready for urban-type use yet.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to a recent article "McConnell Air Force Base puts nearly \$370 million into Wichita's economy, according to Air Force Data. The base itself is worth nearly \$1.4 billion." ("Defending Kansas Bases: McConnell, others hope to avoid closing list," The Wichita Eagle, January 17, 2005, p. 1). The proposed development plan and recommended conditions are designed to lessen concerns of the base.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" use and shows the property as a "Potential Future Park Site". The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the "Maximum Mission Area" identified by the Joint Land Use Study. The site is within the anti-terrorism/force protection zone around McConnell. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, similar landscaping, and shared or similar signage. It provides for cross-lot circulation, an overall site circulation and pedestrian circulation plan and a site plan for each parcel to ensure compatibility with the overall plan. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational**

**Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The CUP incorporates provisions for more restrained signage, less impact from drive-through lanes as well as lighting provisions.

7. Impact of the proposed development on community facilities: The additional traffic is expected to generate significant additional traffic on Rock Road. The accel/decel lanes are designed to mitigate the potential conflicts from traffic entering and exiting the site with the high speed through traffic. Water and sewer lines will need to be extended approximately ¼ to ½ mile or more to serve this and other areas to be developed south of 31<sup>st</sup> Street South.

No one requested this case to be heard.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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12. **Case No.: DER2007-10** - City of Wichita, Metropolitan Area Planning Commission Request Zone change from the "LI," Limited Industrial district to the "SF-5," Single-family Residential district in the Oatville neighborhood.

Generally located North of MacArthur, west of South Sabin Street, ½ block west of South Baehr Street and south of West 37<sup>th</sup> Street.

No one requested this case to be heard.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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13. Other matters/Adjournment.

**DIRECTOR SCHLEGEL** reported on the possibility of the MAPC meetings being televised in the future. Responding to a question from **ANDERSON**, concerning why these meetings need to be televised. **SCHLEGEL** explained it was for greater public access.

**DOWNING** asked about real time or taped and broadcast later.

**DIRECTOR SCHLEGEL** said they would be taped and broadcast later

**CHAIRMAN MITCHELL** has asked both the City and County Law Departments on the progress of the changes to the Subdivision Regulations that he would be asking board members to volunteer for review.

**ADJOURN** at 2:50 p.m.

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The Metropolitan Area Planning Department informally adjourned at 2:50 p.m.

State of Kansas )  
Sedgwick County ) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)